



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

Ref: 8ENF-AT-P

SENT BY ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Johnny Choate, Warden
Dawn Ceja, Assistant Warden
GEO Group, Inc.
3130 North Oakland Street
Aurora, Colorado 80010
JChoate@geogroup.com
DCeja@geogroup.com

Re: **Notice of Inspection--Updated:** Immigration Customs Enforcement (ICE) Processing Center located in Aurora, Colorado

Dear Mr. Choate and Ms. Ceja:

Based on your request to postpone the previously scheduled inspection, this letter is being sent to confirm the approved request and provided you with the re-scheduled inspection date. Pursuant to its inspection authority under section 8(b) of the Federal Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136f(b), the United States Environmental Protection Agency intends to conduct an inspection by video conference of the Aurora ICE Processing Center to determine the Center's compliance with FIFRA in applying disinfectants. In accordance with section 9(a) of FIFRA, 7 U.S.C. § 136g(a), this letter also serves as a Notice of Inspection "For Cause" because, based on recent news articles, EPA believe Geo Group may be using registered pesticides in a manner inconsistent with their labeling, in violation of FIFRA § 12(a)(2)(G), 7 U.S.C. § 136j(a)(2)(G). Typically, "for cause" inspections are unannounced; however, EPA is providing notice for your convenience.

The purpose of this letter is to assist you in preparing for the inspection. The objectives of use inspections are to determine whether pesticides are being used in accordance with label instructions and collect information about pesticide use and pesticide label and labeling materials. Pesticide use activities include storage, handling, mixing/loading, transportation, application and disposal. Use inspections may be performed during any use activity. Use inspections may also occur where pesticides have previously been applied. You will be asked a number of questions related to these objectives, including questions that come from FIFRA Inspection Manual, Chapter 8, which can be found at: <https://www.epa.gov/compliance/guidance-federal-insecticide-fungicide-and-rodenticide-act-fifra-inspection-manual>.

FIFRA section 12(a)(2)(G) states, "it shall be unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling." 7 U.S.C. § 136j(a)(2)(G). FIFRA section 2(ee) states that the phrase "to use any registered pesticide in a manner inconsistent with its labeling" "means to use a pesticide in a manner not permitted by the labeling...." 7 U.S.C. § 136(ee).

The inspection will be conducted by video conference on December 16, 2020, at 10:00 am. EPA acknowledges that the COVID-19 pandemic may be impacting your business; therefore, the inspection will be conducted virtually via Microsoft TEAMS meeting ([Click here to join the meeting](#)) to minimize potential exposure to COVID-19. By participating in EPA hosted virtual meetings and events, you are consenting to abide by the agency's terms of use. In addition, you acknowledge that content you post may be collected and used in support of FOIA and eDiscovery activities. Pursuant to FIFRA Section 8(b), 7 U.S.C. § 136f(b), the EPA will be requesting documents during the inspection related to the application of ALL pesticides used in your facility including, but not limited to ALL of the products (devices to be included) with EPA Registration Numbers and or EPA Establishment Numbers. Accordingly, as part of this Request for Information, the documents you are requested to provide include the following:

1. A copy (or original) of ALL the labels for ALL the products that have been used within the last year or are currently being applied in your facility, including any pesticide devices. This should include any additional labeling that is supplied to you, such as supplemental labeling, pamphlets, etc.
2. Picture of all products (all four sides of packaging) being used within the facility.
3. A copy of purchase invoices for all pesticides and pesticide devices that are currently being used in your facility or have been used in the last year.
4. A copy of ALL of the applications made of ALL pesticides from May 1, 2020 to the present, a description of specifically where (specific location in the facility), how (i.e. sprayer, fogger, if chemicals were mixed together, how much was used, etc.), and by whom (Name, Address, and Phone Number), disinfectants are being applied within the facility, and a list of the people present during the application.
5. Medical records of detainees who were evaluated by a doctor after complaining of illness due to exposure to disinfectants. Please provide records for the incidents that have occurred since May 1, 2020.
6. 10. A copy of the policy describing how staff or management should respond when detainees become ill.
7. A copy of any other incident or accident related to application of pesticides that occurred within the last year.
8. A copy of your inventory records for ALL pesticides located in your facility, where they are stored, and how they are stored.
9. A labeled map or diagram showing the layout of the facility.
10. A copy of the most recent contract with Spartan Chemical Company and contact information for Spartan Chemical Company representatives that provide service to the facility.

Within ten (10) business days of receipt of this Request, please submit a PDF copy of the records/documents that are responsive to this Request to kinard.sherrie@epa.gov, with a Cc to eakins.shaula@epa.gov, along with a signed PDF copy of the accompanying Statement of Authorization (Attachment 2). For each PDF copy of a document produced in response to this Request, indicate on such copy or in some other reasonable manner, the Request item number to which it responds. You may also include a narrative statement to accompany the responsive records/documents. Similarly, if any portion or all of the narrative pertains to a specific Request item, please indicate the Request item number to which it corresponds.

Please know that federal law at 18 U.S.C. § 1001 authorizes criminal fines and/or imprisonment for knowingly or willfully providing false information to the United States Government.

Pursuant to the regulations at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering all or any part of the submitted business information as defined in 40 C.F.R. Section 2.201(c). Attachment 1 to this letter specifies the assertion and substantiation requirements for business confidentiality claims. Asserting a business confidentiality claim does not relieve your obligation to respond fully to this letter. Failure to assert such a claim makes the submitted information subject to potential public disclosure upon request and without further notice to you pursuant to the Freedom of Information Act, 5 U.S.C. Section 552. Information subject to a business confidentiality claim may be made available to the public only to the extent, and by means of the procedures, set forth in the above cited regulation.

If you happen to have anything that falls into the confidential business information (CBI) category, please mail rather than email this CBI to Sherrie Kinard at the address below. The CBI information should be contained in its own envelope marked "CBI – To be opened only by Sherrie Kinard," and an outer envelope should be used for mailing the CBI materials.

Sherrie Kinard, Physical Scientist
USEPA Region 8
1595 Wynkoop St
Denver, CO 80126

Thank you in advance for your prompt attention to this matter. If you have any questions, please contact Sherrie Kinard at (303) 312-6613 or kinard.sherrie@epa.gov. If you have any legal questions, please contact Shaula Eakins at (303) 312-6317 or eakins.shaula@epa.gov.

Sincerely,
DAVID
COBB

David Cobb, Unit Chief
Enforcement and Compliance Assurance Division

Digitally signed by
DAVID COBB

Date: 2020.12.01
13:09:13 -07'00'

Enclosures

cc: Scott, Colorado Department of Agriculture, John.Scott@state.co.us
Laura Quakenbush, Colorado Department of Agriculture, laura.quakenbush@state.co.us

ATTACHMENT 1

CONFIDENTIAL BUSINESS INFORMATION (CBI) ASSERTION AND SUBSTANTIATION REQUIREMENTS

A. Assertion Requirements

You may assert a business confidentiality claim covering all or part of the information requested in the attached letter, as provided in 40 C.F.R. § 2.203(b). To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to United States Environmental Protection Agency (EPA), a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “company confidential” and a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Clean Air Act (the Act) and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208 which provides in part that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking you to substantiate fully your CBI claim. You must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. EPA will ask you to specify which portions of the information you consider confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being subject to CBI, EPA will ask you to answer the following questions, giving as much detail as possible:

I. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date; until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

II. Information submitted to EPA becomes stale over time. Why should the information you

claim as confidential be protected for the time period specified in your answer to question #1?

III. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

IV. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

V. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

VI. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

VII. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

VIII. Any other issue you deem relevant.

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), EPA will require you to bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ATTACHMENT 2

STATEMENT OF AUTHORITY TO ACT AS AUTHORIZED REPRESENTATIVE

I, _____ (the undersigned), acknowledge receipt of the foregoing Request for Information and certify that:

I am an Authorized Representative of Geo Group, Inc.

Attached hereto are _____ pages of PDF copies of documents or records. The attached pages are true and correct copies of documents or records that I presently have in my custody and/or control as an owner, officer and/or employee of Geo Group, Inc.

I am one of the custodians of the records of which the attached pages are true and correct copies. Those documents that have been requested by EPA are being produced along with this Statement in response to the Request.

The records (of which the attached pages are true copies) involved here were received or kept in the normal course of regularly conducted business and activity of Geo Group, Inc.

I have made a diligent search and inquiry for all records which are reasonably described in the Request to which this Statement responds. I have not found or located, and I have not been told about, and I have no knowledge of, any documents or records falling within the descriptions set forth in the Request that have not been copied and submitted along with this Statement.

All responses to the inquiries contained in the Request are true, complete and accurate. I acknowledge that this Statement is submitted to the United States in connection with a matter within the jurisdiction of EPA and that any materially false statement of fact herein may be a federal crime under 18 U.S.C. § 1001.

Date: _____ Signature: _____

Type or Print Name: _____

Title: _____

Geo Group, Inc.